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6 **UNITED STATES DISTRICT COURT**

7 **DISTRICT OF NEVADA**

8 Bass Underwriters, Inc.,

9 Plaintiff,

10 vs.

11  
12 David Kono; Brooks Group Insurance Agency,  
LLC.

13 Defendants.  
14

Case No.: 2:22-cv-00138-RFB-EJY

**PLAINTIFF'S MOTION FOR LEAVE  
TO FILE UNDER SEAL**

15 Under Local Rule IA 10-5 and the Protective Order (ECF No. 21), Plaintiff Bass  
16 Underwriters, Inc. ("Bass"), moves the court for an order sealing Exhibits 2-7 attached to its  
17 Opposition to Defendant Brooks Group Insurance Agency, LLC's ("Brooks") Motion to Dismiss  
18 ("Opposition") Plaintiff's First Amended Complaint. Pursuant to the protective order (ECF No.  
19 21) in this case, these exhibits are either: (1) demarcated "Highly Confidential – Attorney's Eyes  
20 Only" on the bottom of each page or (2) contain confidential business records. The exhibits relate  
21 to David Kono's theft of confidential and trade secret information.

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Bass seeks the exhibits be sealed in their entirety as redaction is infeasible. Special protection from public disclosure and from use for any purpose other than prosecution of this action appears to be warranted for this document.

Dated: June 14, 2023.

**Cozen O'Connor**

By: /s/ Karl O. Riley

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## **MEMORANDUM OF POINTS AND AUTHORITIES**

### **I. INTRODUCTION**

This case arises out of David Kono's theft of certain confidential and trade secret information. To properly file the Opposition, Bass includes certain communications between the relevant parties

### **II. CONFIDENTIAL AND PRIVATE INFORMATION OF BASS SHOULD BE SEALED.**

"[T]he common law right of access is not absolute." *In re Midland Nat. Life Ins. Co. Annuity Sales Practices Litig.*, 686 F.3d 1115, 1119 (9th Cir. 2012). For non-dispositive motions, a party may seek to seal material under a standard of "good cause" similar to the standard for an order of protection under Federal Rule of Civil Procedure 26(c). *Diamond X Ranch LLC v. Atl. Richfield Co.*, No. 13-cv-00570, 2016 WL 3176577 at \*2 (D. Nev. June 3, 2016). When ruling on a motion to seal court records, the district court, in its discretion, balances the competing interests of the public and the party seeking to seal the records. *In re Midland*, 686 F.3d at 1119; *see also Ctr. For Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1097 (9th Cir. 2016).

These exhibits discuss Brooks's recruitment of Kono, which Kono concurrently or subsequently began to steal Bass's confidential and trade secrets. Accordingly, there is a compelling reason to seal these documents in order to avoid the disclosure of confidential and private

information. As such, under the protective order, Bass respectfully requests that this Court grant its motion to seal the above trial exhibits pending trial.

## II. THE REQUEST TO SEAL IS LIMITED IN SCOPE AND NARROWLY TAILORED

Bass is not requesting the wholesale sealing of its Motion. These five exhibits identified by Bass may contain discussion of its confidential and trade secret information that should not be disclosed to the public until trial in this matter. The proposed sealing sought by Bass is, thus, narrowly tailored, while still appreciating the presumption of access to court records.

## III. REDACTION IS INFEASIBLE

In an abundance of caution, Bass removed all exhibits for the same reason.

## IV. CONCLUSION

Bass has served an unredacted copy of the Opposition and all exhibits via email and has mailed a copy in paper form under LR IA 10-5(d). For these reasons, Bass respectfully requests that the Court grant its motion to seal Exhibits 2-7 in the Opposition.

Dated: June 14, 2023.

**Cozen O'Connor**

By: /s/ Karl O. Riley

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*Attorney for Plaintiff  
Bass Underwriters, Inc.*

IT IS SO ORDERED.

  
U.S. MAGISTRATE JUDGE

Dated: June 15, 2023